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17 *Attorneys for Defendant Google LLC*

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20
21 CHASOM BROWN, individually and on
22 behalf of all similarly situated,

23 Plaintiffs,

24 v.

25 GOOGLE LLC,

26 Defendant.
27
28

Case No. 5:20-cv-03664-YGR-SVK

**DECLARATION OF MATTHEW
KELLOGG IN SUPPORT OF MOTION
TO STRIKE**

Referral: Hon. Susan van Keulen, USMJ

1 I, Matthew Kellogg, declare as follows:

2 1. I am a member of the bar for the state of California and Senior Product Counsel for
3 Google LLC (“Google”). I have been employed as in-house counsel at Google since 2015. Prior
4 to joining Google, I was an associate at the law firm of Covington & Burling LLP from 2011 to
5 2015. I make this declaration of my own personal, firsthand knowledge, and if called and sworn as
6 a witness, I could and would testify competently thereto.

7 2. In my role as Google in-house counsel, I am responsible for providing legal advice
8 regarding, *inter alia*, negotiations with certain domestic and foreign regulatory authorities, including
9 the United Kingdom’s Competition and Markets Authority (“CMA”).

10 3. I often seek information from non-attorney Google employees regarding the
11 technical operation of Google’s products in order to provide legal advice regarding ongoing
12 regulatory actions and discussions with regulatory authorities. I frequently direct non-attorney
13 Google employees to conduct, *e.g.*, factual investigations and discussions with other non-attorneys
14 in order to gather such information.

15 4. I also often task non-attorney Google employees with providing information
16 regarding the nature of these regulatory inquiries.

17 5. I understand that a document with the Bates number GOOG-BRWN-00857642 has
18 been withheld from disclosure in this action pursuant to the attorney-client privilege and work
19 product protection doctrine.

20 6. GOOG-BRWN-00857642 is an email thread that begins with a September 27, 2021
21 email from non-attorney Google Program Manager Nathaniel Schneider regarding an investigation
22 that he conducted at my direction to evaluate certain product features in relation to a regulatory
23 inquiry by the CMA. Information regarding the results of this regulatory inquiry is available at
24 https://assets.publishing.service.gov.uk/media/62052c52e90e077f7881c975/Google_Sandbox_.pdf
25 .

26 7. I requested that someone from the product and engineering teams perform this
27 investigation while Google’s negotiations with the CMA were ongoing so that I could evaluate the
28 information and provide legal advice to Google regarding its representations to the CMA. Mr.

1 Schneider undertook this investigation based on my request. Mr. Schneider was acting as my agent
2 to seek and obtain information necessary for my provision of legal advice. The internal investigation
3 is protected work product, as it was done at my direction for the purpose of providing legal advice
4 related to responding to an active regulatory inquiry by the CMA.

5 8. Mr. Schneider's review of information provided in the course of this internal
6 investigation and explanations of the nature of the underlying regulatory inquiry to other non-
7 attorney employees were done based on my request and in furtherance of my work on the CMA
8 inquiry. As such, Mr. Schneider contacted certain Google employees, as reflected in GOOG-
9 BRWN-00857642. In this capacity, Mr. Schneider was acting at my request to convey my legal
10 advice regarding these commitments to the CMA, and to gather information in preparation for
11 discussions with the CMA regarding the active regulatory inquiry.

12 9. The internal deadline reflected in GOOG-BRWN-00857642, including in the email
13 subject line, was informed by the schedule of the CMA investigation. A public version of that
14 schedule is located here: [https://www.gov.uk/cma-cases/investigation-into-googles-privacy-](https://www.gov.uk/cma-cases/investigation-into-googles-privacy-sandbox-browser-changes#case-timetable)
15 [sandbox-browser-changes#case-timetable](https://www.gov.uk/cma-cases/investigation-into-googles-privacy-sandbox-browser-changes#case-timetable).

16 10. While the internal investigation was initiated so that I could provide legal advice
17 related to Google's response to the CMA regulatory inquiry, the results of the investigation were
18 eventually shared with the in-house litigation teams working on the *Brown v. Google* and *Calhoun*
19 *v. Google* litigations.

20 11. The discussions regarding my legal advice described above were confidential, only
21 discussed and shared with internal resources on a need-to-know basis, treated as attorney-client
22 privileged within Google, and were performed at my direction for the purposes of obtaining and
23 providing legal advice in connection with an ongoing regulatory inquiry.

24
25 I declare under penalty of perjury of the laws of the United States that the foregoing is true
26 and correct.

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1 Executed in Alameda, CA, on September 2, 2022.

2 DATED: September 2, 2022.

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DocuSigned by:
By Matthew Kellogg
1A10E4BF5782426
Matthew Kellogg

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